

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MERRICK JOSE MOORE,

Plaintiff,

No. CIV S-04-0763 GEB KJM P

vs.

S. SALENGER, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

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Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. On two occasions the court has ordered plaintiff to provide the court with the address for defendant Fleischman for service of process as required under Rule 4 of the Federal Rules of Civil Procedure. Plaintiff complied with the court orders but the U.S. Marshal has not been able to serve Fleischman based on the information provided by plaintiff. In response to the Marshal's last attempt to serve, the Marshal was informed that there is no person named Fleischman that works for the California Department of Corrections and Rehabilitation. In light of the fact that plaintiff does not seem able to provide the court with an address where defendant Fleischman can be served, nor does it appear that judicial intervention in this regard is warranted, the court will recommend that defendant Fleischman be dismissed.

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1 Accordingly, IT IS HEREBY RECOMMENDED that defendant Fleischman be
2 dismissed.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
5 days after being served with these findings and recommendations, plaintiff may file written
6 objections with the court. The document should be captioned "Objections to Magistrate Judge's
7 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
8 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
9 F.2d 1153 (9th Cir. 1991).

10 DATED: February 13, 2007.



U.S. MAGISTRATE JUDGE

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